

07 CV 6177

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CORBIS CORPORATION,

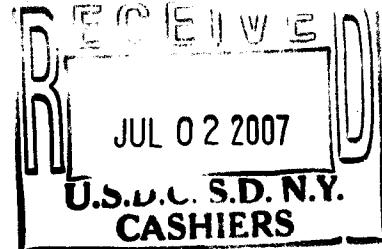
Plaintiff,

vs.

NICK STAR d.b.a.
 MASTER MAINTENANCE,

Defendant.

Judge Berman



Civil No. _____

COMPLAINT FOR
COPYRIGHT INFRINGEMENT

(Jury Trial Requested)

Plaintiff Corbis Corporation, by its attorneys Zeichner Ellman & Krause LLP, alleges as follows:

SUMMARY OF ACTION

1. This is an action for copyright infringement. Plaintiff is an industry-leading visual solutions provider that owns the rights to one of the largest image collections in the world. Defendant is a professional building maintenance and janitorial service. Defendant has taken certain of Plaintiff's copyrighted images without Plaintiff's permission or knowledge, and copied and displayed the images on the website for his business. Plaintiff is entitled to the equitable and legal redress sought in this action.

PARTIES

2. Plaintiff Corbis Corporation (“Corbis”) is a Washington Corporation with its principal place of business in Seattle, Washington. Corbis is an industry-leading visual solutions provider, and the owner of the rights to one of the largest image collections in the world, including contemporary and archival photography, fine art, illustrations, cartoons, and footage.

3. Upon information and belief, defendant Nick Star d.b.a. Master Maintenance (“Maintenance”) is an individual doing business as Master Maintenance, a professional janitorial and building service company located in Lima, Ohio and in this judicial district. Maintenance has a website located at www.master-maintenance.com.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this dispute pursuant to 17 U.S.C. § 101 et. seq. (copyright infringement), 28 U.S.C. § 1331 (federal question under copyright laws), and 28 U.S.C. § 1338 (copyright infringement and unfair competition).

5. This Court has personal jurisdiction over Maintenance in that the choice of law provision in the online Licensing Agreement for use of Corbis Images places exclusive jurisdiction for all suits regarding disputes under that Agreement in New York courts under New York law.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b) in that the choice of law provision in the online Licensing Agreement for use of Corbis Images places exclusive jurisdiction for all suits regarding disputes under that Agreement in New York courts under New York law.

FACTS COMMON TO ALL CLAIMS

7. Corbis is an industry-leading visual solutions provider. It owns the rights in one of the largest image collections in the world, including contemporary and archival photography, fine art, illustrations, cartoons, and footage.

8. All of the images owned by Corbis are protected under the Copyright Law of the United States. These rights under copyright are valid and subsisting. Corbis owns copyright registrations to the images that are the subject of this action. A copy of the Corbis Images is attached hereto as **Exhibit A** (the "Corbis Images"). A list of the copyright registrations for the Corbis Images is attached hereto as **Exhibit B**.

9. The Corbis Images can be accessed on Corbis' website, www.corbis.com (the "Corbis Website"). The Corbis Website contains a downloadable agreement entitled the Corbis Content License Agreement, a true copy of which is attached hereto as **Exhibit C** (the "License Agreement"). The License Agreement governs all uses of Corbis Images by any user of Corbis Images.

10. Section 21 of the License Agreement, entitled "Choice of Law/Jurisdiction/Attorneys' Fees" provides in relevant part that "Any dispute regarding this Agreement shall be governed by the laws of the State of New York and by Titles 15, 17 and 35 of the U.S. Code as amended, and the parties agree to accept the exclusive jurisdiction of the state and federal courts located in New York, New York regardless of conflicts of laws...."

11. Maintenance owns and operates a website having the internet address www.master-maintenance.com (the "MM Website") for the purpose of promoting its business.

12. On information and belief, in or about September 2004, Maintenance without the authorization or knowledge of Corbis, downloaded from the Corbis Website the Corbis Images, and reproduced, displayed, and otherwise used and continued to use the Corbis Images on the MM Website and has otherwise infringed Corbis' exclusive rights under the federal Copyright Law in its original copyrighted design.

13. The downloading, reproduction, display and use of the Corbis Images by Maintenance are governed by the License Agreement and its Choice of Law provision.

FIRST CAUSE OF ACTION

(Copyright Infringement Under 17 U.S.C. 101 Et Seq.)

14. Corbis incorporates by reference paragraphs 1 through 13 above, as though fully set forth herein.

15. Maintenance actions averred herein constitute copyright infringement in violation of the Copyright Act, 17 U.S.C. §§ 101 et seq.

16. Corbis is entitled to preliminary and permanent injunctive relief to prevent further infringement by Maintenance and further irreparable harm to Corbis; such injunctive relief may include seizure and destruction of all unauthorized copies of the Corbis Images reproduced, manufactured or distributed by Maintenance.

17. Corbis is entitled to actual damages, Defendant's profits realized by its unlawful activity.

18. In lieu thereof, at Corbis' election, Corbis is entitled to the maximum statutory damages awardable with respect to each act of infringement by Defendant.

19. Corbis further is entitled to its costs and attorney fees.

SECOND CAUSE OF ACTION

(Removal or Alteration of Copyright Management Information)

20. Corbis incorporates by reference paragraphs 1 through 19 above, as though fully set forth herein.

21. By its acts averred herein, Maintenance has intentionally altered or removed the copyright management information (“CMI”) associated with the Corbis Images in violation of 17 U.S.C. § 1202(b)(1) and/or has distributed works knowing that the CMI has been removed or altered in violation of 17 U.S.C. § 1202(b)(3).

22. Corbis is entitled to preliminary and permanent injunctive relief to prevent further violations by Maintenance and further irreparable harm to Corbis; such injunctive relief may include seizure and destruction of all unauthorized copies of the Corbis Images reproduced, manufactured, altered, or distributed by Maintenance.

23. Corbis is entitled, pursuant to 17 U.S.C. § 1203, to actual damages and Maintenance’s profits realized by his unlawful activity.

24. Alternatively, Corbis is entitled, pursuant to 17 U.S.C. § 1203, to the maximum statutory damages awardable with respect to each act of circumvention by Maintenance.

25. Corbis further is entitled to its costs and attorney fees.

REQUEST FOR RELIEF

WHEREFORE, Corbis prays for the following relief against Maintenance:

1. A judgment from this Court that:

- (a) Maintenance has infringed Corbis' exclusive rights in the Corbis Images; and
- (b) Maintenance has altered and/or removed the CMI associated with the Corbis Images and have distributed works knowing that the CMI has been removed or altered.

2. Preliminary and permanent injunctive relief in the form of an order or orders requiring that Maintenance, its/his officers, agents, servants, employees, and attorneys, and all others in active concert or participation with Maintenance, be permanently enjoined and restrained from:

- (a) reproducing, distributing, displaying, selling, offering for sale or creating derivative works of the Corbis Images;
- (b) using the Corbis Images in connection with the advertising, promoting, offering for sale or sale of any product or service; and
- (c) altering and/or removing CMI and distributing works from which CMI has been removed or altered.

3. Preliminary and permanent injunctive relief in the form of an order or orders requiring that Maintenance turn over to Corbis all unauthorized copies and derivative works, electronic and physical, of all Corbis Images in their possession, custody, or control, for destruction

or other disposition as determined by Corbis; and that Maintenance permit an agent of Corbis to inspect Maintenance's premises to ensure compliance with the Court's order.

4. Under Title 17, actual damages (including but not limited to lost profits or Maintenance's ill-gotten gain) caused by Maintenance's wrongful acts as set out above; or in the alternative the maximum awardable statutory damages; and

5. An award of Corbis' actual costs, disbursements, and attorney fees incurred in this action, as provided by law.

JURY TRIAL REQUEST

Plaintiff Corbis Corporation hereby requests a trial by jury in this action on all issues triable to a jury.

Dated: New York, New York
July 2, 2007

Respectfully submitted,



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